

INSPECTIONS & APPEALS

SEP 13 2004

DIRECTOR'S OFFICE

September 3, 2004

Steve Young, Director
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319-0083

Dear Mr. Young:

This is in response to your letter of August 6, 2004 that contained your review of the report completed by the Iowa Protection & Advocacy Services, Inc. (P & A) that alleges the Iowa Department of Inspections and Appeals (IDIA) is understating findings of surveyors in the field. The purpose of this letter is to provide our response to the concerns outlined in the review of the CMS Form-2567L (Statement of Deficiencies/Plan of Correction) completed by the P & A and the IDIA response to those concerns contained in your letter of August 6, 2004.

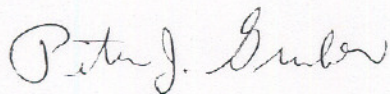
Our response is based on a comparison of the P & A Report and the IDIA response to that report. Based on that comparison, it appears the conclusions reached by P & A may, at least in part, be based on a misunderstanding of the survey process and the amount of documentation that is required to substantiate a deficient practice. Although we may not have agreed with all the rationale used by IDIA, we did not identify any major disagreements with the final 2567L issued in the cases included in the P&A report.

It would appear that surveyor notes were used by P&A to determine the completeness and accuracy of the statement of deficiencies issued by IDIA. The review of surveyor notes can provide insight into compliance decisions but should not be considered as the surveyor's final findings. It is simply very difficult to determine what should and should not be cited without being a part of the survey and administrative review process. The best way to assess the accuracy of the statement of deficiencies is to participate in and observe the entire process.

This is the reason CMS uses the federal observation survey to assess State Agency survey performance. Our surveyors make the same observation at the same time as the state surveyors. This allows CMS to determine errors of omission and commission by surveyors. It also affords us the opportunity to compare the state surveyor's preliminary deficiencies to the final deficiencies cited by the State agency after administrative review. CMS also assesses whether or not the final statement of deficiencies reflects the problems identified by the federal surveyor while onsite at the facility with State surveyors.

CMS would recommend that representatives from the IDIA and P&A meet to discuss the concerns presented in the P&A report. This would provide an opportunity to discuss mutual concerns and explain ways to resolve issues between the two agencies.

Sincerely,

A handwritten signature in cursive script, reading "Peter J. Gruber".

Peter J. Gruber, Acting Branch Manager
Division of Survey and Certification
Kansas City Regional Office